

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

ELIZABETH PANZARELLA,
individually & on behalf of all others
similarly situated,

Plaintiff,

v.

RUSHMORE LOAN MANAGEMENT
SERVICES, LLC

Defendant.

:
:
:
:
:
:
:
:
:
:
:
:
:

Civil Action No. 2:20-cv-04467

**ORDER GRANTING PLAINTIFF’S MOTION TO CERTIFY A CLASS
UNDER FED. R. CIV.P. 23, APPOINT PLAINTIFF AS
CLASS REPRESENTATIVE AND APPOINT CLASS COUNSEL**

Upon consideration of Plaintiff Elizabeth Panzarella’s Motion to Certify a Class Under Rule 23, Appoint Named Plaintiff as Class Representative, and Appoint Class Counsel, the opposition, response, discovery record, and related replies and papers and the argument of counsel before the Court, the Court makes the following findings and grants the Motion:

1. The Court finds that each requirement of Fed. R. Civ. P. 23(a) has been satisfied by the Plaintiff in this action. There is sufficient evidence in the discovery record of numerosity, commonality, typicality, and adequacy of the Plaintiff as Class Representative and her counsel as Class Counsel.
2. The Court finds that the requirements of Fed. R. Civ. P. 23(b)(2) have been

satisfied. By attempting and/or actually collecting Assignment of Mortgage Fees (“AOM Fees”) and Non-incurred Attorney Fees and Foreclosure Costs (“Unearned Foreclosure Fees”) based on its uniform and standard practices, the Defendant has acted on grounds generally applicable to the Plaintiff and also to the class, thereby making corresponding relief with respect to the class as the whole, appropriate.

3. The Court finds that the requirements of Fed. R. Civ. P. 23(b)(3) have been satisfied. The predominant issue before the Court concerns whether Rushmore utilized false or misleading means or otherwise acted unfairly or unconscionably by seeking to attempt to collect and/or actually collect AOM Fees and/or Unearned Foreclosure Fees from Plaintiff and the FDCPA Class members as prohibited by the FDCPA. The Court further finds that a class action to adjudicate these claims is a superior method than individual actions.
4. The Court finds that the discovery record and laws governing Rushmore’s business make the certified class both ascertainable and manageable.
5. The Court GRANTS the Motion and certifies the following “FDCPA Class” of persons pursuant to Fed. R. Civ. P. 23:

Those persons in the Commonwealth of Pennsylvania for whom Rushmore:

- a. Acquired the mortgage servicing or collection rights of their consumer, residential mortgage loans when it believed the loan was in default to collect on behalf of another who owned the loan; and
- b. From September 11, 2019, through June 10, 2021, Rushmore sought or did collect (i) AOM Fees related to the mortgage and/or (ii) Unearned Foreclosure Fees related to the mortgage.

(“FDCPA Class”).

6. The Court appoints Elizabeth Panzarella as Class Representative for the FDCPA Class.
7. The Court appoints Plaintiffs’ counsel, Robert Cocco and Phillip Robinson, as Class Counsel.
8. Within 30 days of entry of this Order, Class Counsel shall prepare, in consultation with counsel for the Defendant, an Administrative Order for the Court’s consideration which:
 - a. Sets forth the form and manner of notice to be sent to the FDCPA Class members,
 - b. Orders Rushmore to prepare a list of members of the FDCPA Class from its records to provide it to Class Counsel for the purposes of sending notice to the FDCPA Class Members, and
 - c. If necessary, orders (i) a Fed. R. Civ. P. 34 limited inspection of Rushmore’s electronic records by Plaintiff’s expert/consultant for the

purposes of obtaining whatever data is necessary to properly identify the members of the FDCPA Class that cannot otherwise be produced from Rushmore's standard electronic reporting functions and/or (ii) Class Counsel to complete a further, complete review of Pennsylvania's public records in all of its counties to obtain whatever data is necessary to properly identify the members of the FDCPA Class that cannot otherwise be produced from Rushmore's standard electronic reporting functions.

Hon. Paul Diamond
United States District Judge